



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

December 18, 2024

**BY ECF**

The Honorable Jennifer L. Rochon  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: *The New York Times Company v. United States Department of State*,  
No. 24 Civ. 8747 (JLR)

Dear Judge Rochon:

This Office represents Defendant United States Department of State in the above-referenced case brought by Plaintiffs The New York Times Company and Amy Julia Harris, pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. The parties jointly submit this letter in response to the Court’s November 20, 2024, Order, ECF No. 7, requiring the parties to submit a joint letter addressing “whether there is any need for discovery or an initial conference in this case” and, if not, proposing a “briefing schedule for any motions, including motions for summary judgment.” *See also* ECF No. 11 (extending deadline for letter to December 18, 2024).

Because this is an action brought pursuant to FOIA, which in essence seeks review of agency action, the parties respectfully submit that pursuant to Federal Rules of Civil Procedure 26(a)(1)(B)(i) and 26(f), this action is exempt from initial disclosure and the requirement for a Rule 26(f) conference and report. In addition, the parties understand that pursuant to Local Civil Rule 16.1, this FOIA action is exempt from the requirement of a mandatory scheduling order under Fed. R. Civ. P. 16(b). Moreover, the parties respectfully submit that such a scheduling order is unnecessary because the parties expect that this matter, like most FOIA matters, will be resolved either consensually by the parties or through motions for summary judgment without discovery. *See Wood v. FBI*, 432 F.3d 78, 85 (2d Cir. 2005); *Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 812 (2d Cir. 1994).

The parties plan to work together to develop a mutually agreeable production schedule and to request assistance of the Court if they are unable to do so. Given the early stage of the case, it would be challenging to propose a briefing schedule for summary judgment motions, which may ultimately not be necessary. Accordingly, the parties respectfully request that they be relieved of the obligation to submit a briefing schedule at this time, and that they instead be permitted to propose a briefing schedule at the point productions are completed, should such need arise. The parties propose that they submit joint status reports every forty-five days to update the Court on the status of the Government’s response to Plaintiffs’ requests.

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We thank the Court for its consideration of this request.

Respectfully submitted,

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cc: All counsel of record (via ECF)